



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing the City Manager to execute professional services contract with Pacific Municipal Consultants for the services of a part-time Code Enforcement Officer (CD)

MEETING DATE: July 18, 2001

PREPARED BY: Community Development Director

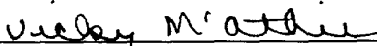
RECOMMENDED ACTION: That the City Council authorize the City Manager to execute a professional services contract with Pacific Municipal Consultants for the services of a part-time Code Enforcement Officer within the Community Development Department.

BACKGROUND INFORMATION: The Community Development Department requested and was approved for a contract Part-Time Code Enforcement Officer position in the 2001/02 and the 2002/03 Budget.

The Community Development Department wishes to employ Pacific Municipal Consultants (PMC), a California corporation, to furnish professional services for a Part-Time Code Enforcement Officer. This part-time position will be assigned to the Community Action Team (CA Team) and handle other special enforcement projects.

FUNDING:	2001/02 Community Improvement Professional Services Budget	\$57,200.00
	2002/03 Community Improvement Professional Services Budget	\$57,200.00

Funding Available:


Vicky McAthie, Finance Director


Konradt Bartlam
Community Development Director

Prepared by Joseph Wood, Community Improvement Manager

KB/jw

Attachments

c: Phil Carter, Pacific Municipal Consultants

APPROVED: _____


H. Dixon Flynn -- City Manager

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between the City of Lodi, hereinafter referred to as CLIENT, and Pacific Municipal Consultants, a California corporation, hereinafter referred to as PMC, whose principal place of business is located at 10461 Old Placerville Road, Suite 110, Sacramento, CA 95827.

WHEREAS, CLIENT desires to employ PMC to furnish professional services in connection with the project described as: furnishing professional services in the form of a Senior Code Enforcement Officer to perform housing, dangerous building, zoning, property maintenance ordinance, vehicle abatement, nuisance and miscellaneous municipal code enforcement inspections, prepare required Notices and documentation related to those inspections and investigations and to perform other related duties as necessary to carry out the duties of Community Improvement Officer for the City of Lodi Community Development Department - Community Improvement Division.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION I - BASIC SERVICES

PMC shall provide the basic services described in detail in Exhibit "A," Description of Basic Services, attached hereto and made a part hereof.

SECTION II - ADDITIONAL SERVICES

If authorized, PMC shall furnish additional services which are in addition to the basic services. To the extent that the additional services have been identified at the time of executing this Agreement, they are itemized in Exhibit "A" and will be paid for by CLIENT as indicated in Section III hereof. As further additional services are requested by CLIENT, this Agreement may be modified and subject to mutual consent by execution of an addendum by authorized representatives of both parties, setting forth the additional scope of services to be performed, the performance time schedule, and the compensation for such services.

SECTION III - COMPENSATION

PMC shall be compensated for basic services rendered under Section I, as more particularly described in Exhibit "A," in accordance with the terms and conditions indicated in Exhibit "B," Compensation; and PMC shall be compensated for additional services rendered under Section II as more particularly described in a fully approved and executed addendum to this Agreement. If no addendum is executed, then PMC shall be compensated at its then prevailing hourly rates for such additional services.

PMC may submit monthly statements for basic and additional services rendered. It is intended that payments to PMC will be made by CLIENT within 30 days of invoice. All invoices not paid within 30 days shall bear interest at the rate of 1 1/2 percent per month or the then legal rate allowed.

SECTION IV - INDEMNIFICATION; HAZARDOUS MATERIALS

A. General

Each party hereto agrees to save, keep, and hold harmless the other party hereto from all damages, costs, or expenses in law and equity including costs of suit resulting from its own negligent acts, errors, omissions or its own willful misconduct.

B. Hazardous Materials

CLIENT acknowledges that PMC's scope of services for this project do not include any work related in any way to asbestos and/or hazardous waste. Should PMC or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect PMC's work, PMC may, at its option, terminate work on the project until such time as CLIENT retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

CLIENT hereby acknowledges that PMC has no professional liability insurance for claims arising out of the performance of or failure to perform professional services, including, but not limited to the preparation of reports, designs, drawings and specifications, related to the investigation, detection, abatement, replacement, use or specification, or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous waste materials. Accordingly, the CLIENT hereby agrees to bring no claim for negligence, breach of contract, indemnity or otherwise against PMC,

its principals, employees, and agents if such claim, in any way, would involve PMC's services for the investigation, detection, abatement, replacement, use or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous waste materials. CLIENT further agrees to defend, indemnify, and hold harmless PMC, its officers, directors, principals, employees, agents, and subconsultants from any asbestos and/or hazardous waste material related claims and suits that may be brought by third parties, and any resulting liability, arising from the services provided by PMC pursuant to this Agreement.

SECTION V - INSURANCE REQUIRED

Without in any way limiting PMC's liability pursuant to the indemnification described above, PMC shall maintain, during the term of this contract, the following insurance:

<u>Coverage</u>	<u>Minimum Limits</u>
<u>General Liability</u>	
Comprehensive General Liability, including: Premises and Operations Contractual Liability Personal-Injury Liability Independent Contractors Liability (if applicable)	\$500,000 Combined Single Limit, per occurrence, and aggregate
<u>Automobile Liability</u>	
Comprehensive Automobile Liability, (including, owned, non-owned and hired autos)	\$500,000 Combined Single Limit, per occurrence, no aggregate
<u>Workers' Compensation and Employer's Liability</u>	
Workers' Compensation Insurance Employer's Liability	Statutory \$1,000,000
<u>Professional Liability</u>	
Professional Liability Insurance	\$500,000 per occurrence and annual aggregate

SECTION VI - INDEPENDENT CONTRACTOR STATUS

PMC shall be an independent contractor and shall have responsibility for and control over the details and means of providing the services under this Agreement.

SECTION VII - OWNERSHIP AND MAINTENANCE OF DOCUMENTS

All documents including without limitation, reports, field data, and field notes, furnished by PMC pursuant to this Agreement, regardless of media (i.e. paper, electronic, magnetic, optical, mylar, etc.), are a product of PMC's services in respect to this project and not instruments. All such documents shall remain the property of the CLIENT.

SECTION VIII - SUSPENSION OF WORK

CLIENT may, at any time, by a (15) fifteen-day written notice suspend further performance by PMC. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and PMC shall be paid for services performed and reimbursable expenses incurred prior to the suspension date.

SECTION IX - TERMINATION

Either party may terminate this Agreement at any time by giving written (15) fifteen-day notice to the other party of such termination. If this Agreement is terminated as provided herein, PMC will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of PMC covered by this Agreement, less payments of compensation previously made.

SECTION X - COMPLIANCE WITH LAW

Each party hereto will use reasonable care to comply with applicable laws in effect at the time the services are performed hereunder which to the best of their knowledge, information and belief apply to their respective obligations under this Agreement.

SECTION XI - SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the parties, but it shall not be assigned by either party without written consent of the other party.

SECTION XII - ATTORNEYS FEES

In the event that any judgment is entered in any action upon this Agreement, the party hereto against whom such judgment is rendered agrees to pay the amount equal to the reasonable attorneys fees of the prevailing party in such action and that such amount may be added to and made a part of such judgment.

SECTION XIII - ALTERNATIVE DISPUTE RESOLUTION

If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

(a) A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

(b) If, within 30 days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "neutral"), seeking assistance in such regard if they have been unable to agree upon such appointment within 40 days from the initial meeting. The fees of the neutral shall be shared equally by the parties.

(c) In consultation with the neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR") by which they will attempt to resolve the dispute, and a time and place for the ADR to be held, with the neutral making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than 60 days after selection of the neutral) if the parties have been unable to agree on any of such matters within 20 days after initial consultation with the neutral.

(d) The parties agree to participate in good faith in the ADR to its conclusion as designated by the neutral. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration or a private adjudicator, or either party may seek an adjudicated resolution through the appropriate court.

SECTION XIV - COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, PMC agrees as follows:

A. Equal Employment Opportunity

In connection with the execution of this Agreement, PMC shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Nondiscrimination Civil Rights Act of 1964

PMC will comply with all federal regulations relative to nondiscrimination in federally-assisted programs.

C. Solicitations for Subcontractors Including Procurement of Materials and Equipment

In all solicitation, either by competitive bidding or negotiations, made by PMC for work to be performed under a subcontract including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by PMC of PMC's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, religion, color, sex or national origin.

SECTION XV - RECORDS

Records of PMC's direct labor costs, payroll costs, and reimbursable expenses pertaining to the project covered by this Agreement will be kept on a generally recognized accounting basis and made available during normal business hours upon reasonable notice.

PMC's records and design calculations will be available for examination and audit if and as required.

SECTION XVI - INSOLVENCY OF CLIENT

PMC shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this Agreement if CLIENT files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against CLIENT in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services made pursuant to the provisions of this paragraph shall continue until such time as this Agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order or judgment issued by the Bankruptcy Court.

SECTION XVII - MISCELLANEOUS PROVISIONS

This Agreement is subject to the following special provisions:

- A. The titles used in this Agreement are for general reference only and are not a part of the Agreement.
- B. This Agreement shall be interpreted as though prepared by both parties.
- C. Any provision of this Agreement held to violate any law shall be deemed void, and all remaining provisions shall continue in full force and effect.
- D. This Agreement shall be interpreted under the laws of the State of California.
- E. This Agreement comprises a final and complete repository of the understandings between the parties and supersedes all prior or contemporary communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement.
- F. Any notices given pursuant to this Agreement shall be effective on the third business day after posting by first class mail, postage prepaid, to the address appearing immediately after the signatures below.
- G. PMC's waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any subsequent breach of any other term, condition or covenant.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions above stated, the day and year first above written.

PMC

CLIENT

By _____
(Signature)

By _____
(Signature)

Name _____
(Typed)

Name _____
(Typed)

Title _____

Title _____

Address _____

Address _____

Telephone _____

Telephone: _____

Approved as to form *Randall A. Skye*
City Attorney

EXHIBIT "A"

DESCRIPTION OF SERVICES

PMC will furnish professional services in the form of a Senior Code Enforcement Officer to perform housing, dangerous building, zoning, property maintenance, vehicle abatement, nuisance and miscellaneous municipal code enforcement inspections, prepare required Notices and documentation related to those inspections and investigations and to perform other related duties as necessary to carry out the duties of Community Improvement Officer for the City of Lodi Community Development Department - Community Improvement Division.

PMC will assign the Senior Code Enforcement Officer 24 hours a week, starting Tuesday, July 24, 2001. Work hours will generally be between the 8:00 A.M. and 5:00 P.M., Tuesday - Thursday, however the CLIENT does reserve the right to adjust the work days and hours as needed.

The need for this service is estimated to be two (2) years.

EXHIBIT "B"

COMPENSATION

PMC's compensation for this service is \$55.00 per hour. This rate includes all mileage and required insurance including professional liability.

RESOLUTION NO. 2001-173

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE
CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES
AGREEMENT WITH PACIFIC MUNICIPAL CONSULTANTS FOR THE
SERVICES OF A PART-TIME CODE ENFORCEMENT OFFICER

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WHEREAS, the Community Development Department requested and was approved for a contract part-time Code Enforcement Officer position in the 2001/02 and 2002/03 Budget.

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Agreement with Pacific Municipal Consultants for the services of a part-time Code Enforcement Officer within the Community Development Department for budget year 2001-/01 and 2002/03.

Dated: July 18, 2001

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I hereby certify that Resolution No. 2001-173 was passed and adopted by the Lodi City Council in a regular meeting held July 18, 2001 by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Howard, Land, Pennino and Mayor Nakanishi

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


SUSAN J. BLACKSTON
City Clerk